

# House File 2464 - Reprinted

HOUSE FILE 2464

BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO HF 2381)

(SUCCESSOR TO HSB 638)

(As Amended and Passed by the House April 25, 2016)

## A BILL FOR

1 An Act relating to environmental protection by modifying and  
2 eliminating allocations from the statutory allocations fund  
3 to the Iowa comprehensive petroleum underground storage tank  
4 fund and the renewable fuel infrastructure fund, making  
5 related changes, including changes related to the repeal of  
6 the environmental protection charge on petroleum diminution,  
7 and including effective date provisions.  
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 DIVISION I  
2 UNDERGROUND STORAGE TANK FUND AND RENEWABLE FUEL INFRASTRUCTURE  
3 FUND ALLOCATIONS

4 Section 1. Section 321.145, subsection 2, paragraph a, Code  
5 2016, as amended by division II of this Act, is amended by  
6 striking the paragraph.

7 Sec. 2. Section 321.145, subsection 2, paragraph b, Code  
8 2016, is amended to read as follows:

9 ~~b. Moneys remaining after the operation of paragraph "a"~~  
10 shall be credited in order of priority as follows:

11 (1) An amount equal to four percent of the revenue from the  
12 operation of [section 321.105A, subsection 2](#), shall be credited  
13 to the department, to be used for purposes of public transit  
14 assistance under [chapter 324A](#).

15 (2) An amount equal to two dollars per year of license  
16 validity for each issued or renewed driver's license which is  
17 valid for the operation of a motorcycle shall be credited to  
18 the motorcycle rider education fund established under section  
19 321.179.

20 (3) The amounts required to be transferred pursuant to  
21 section 321.34 from revenues available under [this subsection](#)  
22 shall be transferred and credited as provided in section  
23 321.34, subsections 7, 10, 10A, 11, 11A, 11B, 13, 16, 17,  
24 18, 19, 20, 20A, 20B, 20C, 21, 22, 23, 24, 25, and 26 for the  
25 various purposes specified in those subsections.

26 Sec. 3. Section 455B.302, unnumbered paragraph 3, Code  
27 2016, is amended to read as follows:

28 A city or county which provides closure or postclosure care  
29 on the premises of a sanitary landfill owned by a private  
30 agency, shall have a lien upon the property to secure payment  
31 for the amount of materials and labor expended by the city or  
32 county to perform the required closure or postclosure care on  
33 the premises. The lien shall be recordable and collectable  
34 in the same manner as provided in [section 424.11](#), Code 2016.  
35 The lien shall attach at the time the city or county incurs

1 expenses to provide closure or postclosure care on the premises  
2 of the sanitary landfill. The lien shall be valid as against  
3 subsequent mortgagees, purchasers, or judgment creditors,  
4 for value and without notice of the lien, only upon filing a  
5 notice of the lien with the recorder of the county in which the  
6 property is located. Upon payment, the city or county shall  
7 release the lien. If no lien has been recorded at the time  
8 the property is sold or transferred, the property shall not be  
9 subject to a lien or claim for any closure or postclosure costs  
10 incurred by the city or county.

11 Sec. 4. Section 455B.392, subsection 7, paragraph d, Code  
12 2016, is amended to read as follows:

13 d. Cleanup expenses incurred by the state or a political  
14 subdivision shall be a lien upon the real estate constituting  
15 the hazardous condition site, recordable and collectable in  
16 the same manner as provided for in [section 424.11](#), Code 2016,  
17 subject to the terms of [this subsection](#). The lien shall  
18 attach at the time the state or a political subdivision incurs  
19 expenses to clean up the hazardous condition site. The lien  
20 shall be valid as against subsequent mortgagees, purchasers,  
21 or judgment creditors, for value and without notice of the  
22 lien, only when a notice of the lien is filed with the recorder  
23 of the county in which the property is located. Upon payment  
24 by the person to the state or a political subdivision, of  
25 the amount specified in [this subsection](#), the state or a  
26 political subdivision shall release the lien. If no lien has  
27 been recorded at the time the person sells or transfers the  
28 property, then the person shall not be liable for any cleanup  
29 costs incurred by the state or a political subdivision.

30 Sec. 5. Section 455G.1, subsection 2, unnumbered paragraph  
31 1, Code 2016, is amended to read as follows:

32 This subchapter applies to petroleum underground storage  
33 tanks for which an owner or operator is required to maintain  
34 proof of financial responsibility under federal or state law,  
35 from the effective date of the regulation of the federal

1 environmental protection agency governing that tank, and not  
2 from the effective compliance date, unless the effective  
3 compliance date of the regulation is the effective date of the  
4 regulation. An owner or operator of a petroleum underground  
5 storage tank required by federal or state law to maintain proof  
6 of financial responsibility for that underground storage tank  
7 is subject to [this subchapter](#) and ~~chapter 424~~.

8 Sec. 6. Section 455G.3, subsection 1, Code 2016, is amended  
9 to read as follows:

10 1. The Iowa comprehensive petroleum underground storage  
11 tank fund is created as a separate fund in the state treasury,  
12 and any funds remaining in the fund at the end of each fiscal  
13 year shall not revert to the general fund but shall remain  
14 in the Iowa comprehensive petroleum underground storage tank  
15 fund. Interest or other income earned by the fund shall be  
16 deposited in the fund. The fund shall include moneys credited  
17 to the fund under [this section](#), section 321.145, subsection  
18 2, paragraph "a", Code 2016, and [sections 455G.8](#) and [455G.9](#),  
19 and [section 455G.11, Code 2003](#), and other funds which by  
20 law may be credited to the fund. The moneys in the fund are  
21 appropriated to and for the purposes of the board as provided  
22 in [this subchapter](#). Amounts in the fund shall not be subject  
23 to appropriation for any other purpose by the general assembly,  
24 but shall be used only for the purposes set forth in this  
25 subchapter. The treasurer of state shall act as custodian  
26 of the fund and disburse amounts contained in it as directed  
27 by the board including automatic disbursements of funds as  
28 received pursuant to the terms of bond indentures and documents  
29 and security provisions to trustees and custodians. The  
30 treasurer of state is authorized to invest the funds deposited  
31 in the fund at the direction of the board and subject to any  
32 limitations contained in any applicable bond proceedings. The  
33 income from such investment shall be credited to and deposited  
34 in the fund. The fund shall be administered by the board which  
35 shall make expenditures from the fund consistent with the

1 purposes of the programs set out in [this subchapter](#) without  
2 further appropriation. The fund may be divided into different  
3 accounts with different depositories as determined by the board  
4 and to fulfill the purposes of [this subchapter](#).

5 Sec. 7. Section 455G.3, subsection 5, Code 2016, is amended  
6 by striking the subsection.

7 Sec. 8. Section 455G.4, subsection 3, paragraph b, Code  
8 2016, is amended by striking the paragraph.

9 Sec. 9. Section 455G.5, unnumbered paragraphs 2 and 3, Code  
10 2016, are amended to read as follows:

11 The board may enter into a contract or an agreement  
12 authorized under [chapter 28E](#) with a private agency or person,  
13 the department of natural resources, the Iowa finance  
14 authority, the department of administrative services, the  
15 department of revenue, other departments, agencies, or  
16 governmental subdivisions of this state, another state, or  
17 the United States, in connection with its administration and  
18 implementation of [this subchapter](#) or chapter ~~424~~ or [455B](#).

19 The board may reimburse a contractor, public or private,  
20 retained pursuant to [this section](#) for expenses incurred in the  
21 execution of a contract or agreement. Reimbursable expenses  
22 include, by way of example, but not exclusion, the costs of  
23 ~~collecting the environmental protection charge or~~ administering  
24 specific delegated duties or powers of the board.

25 Sec. 10. Section 455G.6, subsection 4, Code 2016, is amended  
26 to read as follows:

27 4. Grant a mortgage, lien, pledge, assignment, or other  
28 encumbrance on one or more improvements, revenues, asset of  
29 right, accounts, or funds established or received in connection  
30 with the fund, including revenues derived from the moneys  
31 credited under [section 321.145, subsection 2](#), paragraph "a",  
32 Code 2016, and deposited in the fund or an account of the fund.

33 Sec. 11. Section 455G.8, subsection 2, Code 2016, is amended  
34 to read as follows:

35 2. *Statutory allocations fund.* The moneys credited from the

1 statutory allocations fund under section 321.145, subsection  
2 2, paragraph "a", Code 2016, shall be allocated, consistent  
3 with [this subchapter](#), among the fund's accounts, for debt  
4 service and other fund expenses, according to the fund budget,  
5 resolution, trust agreement, or other instrument prepared or  
6 entered into by the board or treasurer of state under direction  
7 of the board.

8 Sec. 12. Section 455G.9, subsection 5, paragraph a, Code  
9 2016, is amended to read as follows:

10 a. If an owner or operator ceases to own or operate a tank  
11 site for which remedial account benefits were received within  
12 ten years of the receipt of any account benefit and sells or  
13 transfers a property interest in the tank site for an amount  
14 which exceeds one hundred twenty percent of the precorrective  
15 action value, adjusted for equipment and capital improvements,  
16 the owner or operator shall refund to the remedial account  
17 an amount equal to ninety percent of the amount in excess of  
18 one hundred twenty percent of the precorrective action value  
19 up to a maximum of the expenses incurred by the remedial  
20 account associated with the tank site plus interest, equal  
21 to the interest for the most recent twelve-month period for  
22 the most recent bond issue for the fund, on the expenses  
23 incurred, compounded annually. An owner or operator under this  
24 subsection shall notify the board of the sale or transfer of  
25 the property interest in the tank site. Expenses incurred  
26 by the fund are a lien upon the property recordable and  
27 collectible in the same manner as the lien provided for in  
28 section 424.11, Code 2016, at the time of sale or transfer,  
29 subject to the terms of [this section](#).

30 Sec. 13. Section 455G.9, subsections 7 and 10, Code 2016,  
31 are amended to read as follows:

32 7. *Expenses of cleanup not required.* When an owner or  
33 operator who is eligible for benefits under [this subchapter](#)  
34 is allowed by the department of natural resources to monitor  
35 in place, the expenses incurred for cleanup beyond the level

1 required by the department of natural resources may be covered  
2 under any of the accounts established under the fund only  
3 if approved by the board as cost-effective relative to the  
4 department accepted monitoring plan or relative to the repeal  
5 date specified in [section 424.19](#), Code 2016. The cleanup  
6 expenses incurred for work completed beyond what is required  
7 is the responsibility of the person contracting for the excess  
8 cleanup. The board shall seek to terminate the responsible  
9 party's environmental liabilities at such sites prior to the  
10 board ceasing operation.

11 10. *Expenses incurred by governmental subdivisions and public*  
12 *works utilities.* The board shall adopt rules for reimbursement  
13 for reasonable expenses incurred by a governmental  
14 subdivision or public works utility for sampling, treating,  
15 handling, or disposing, as required by the department, of  
16 petroleum-contaminated soil and groundwater encountered in a  
17 public right-of-way during installation, maintenance, or repair  
18 of a utility or public improvement. The board may seek full  
19 recovery from a responsible party liable for the release for  
20 such expenses and for all other costs and reasonable attorney  
21 fees and costs of litigation for which moneys are expended by  
22 the fund. Any expense described in [this subsection](#) incurred  
23 by the fund constitutes a lien upon the property from which  
24 the release occurred. A lien shall be recorded and an expense  
25 shall be collected in the same manner as provided in section  
26 [424.11](#), Code 2016.

27 Sec. 14. Section 455G.13, subsection 5, Code 2016, is  
28 amended to read as follows:

29 5. *Lien on tank site.* Any amount for which an owner or  
30 operator is liable to the fund, if not paid when due, by  
31 statute, rule, or contract, or determination of liability by  
32 the board or department of natural resources after hearing,  
33 shall constitute a lien upon the real property where the tank,  
34 which was the subject of corrective action, is situated, and  
35 the liability shall be collected in the same manner as the

1 environmental protection charge pursuant to [section 424.11](#),  
2 [Code 2016](#).

3     Sec. 15. EFFECTIVE DATE. This division of this Act takes  
4 effect December 31, 2016.

5

DIVISION II

6 RENEWABLE FUEL INFRASTRUCTURE FUND — ENVIRONMENTAL PROTECTION  
7 CHARGE ON PETROLEUM DIMINUTION REPEAL

8     Sec. 16. Section 321.145, subsection 2, paragraph a,  
9 subparagraph (2), Code 2016, is amended to read as follows:

10     (2) Second, ~~seven~~ one million five hundred fifty thousand  
11 dollars per quarter shall be deposited into and credited to the  
12 renewable fuel infrastructure fund created in [section 159A.16](#),  
13 and the moneys so deposited are a continuing appropriation for  
14 expenditure under [chapter 159A, subchapter III](#), and moneys so  
15 appropriated shall not be used for other purposes.

16     Sec. 17. Section 424.19, Code 2016, is amended to read as  
17 follows:

18     **424.19 Future repeal.**

19     This chapter is repealed effective ~~June 30~~ December 31,  
20 2016.

21     Sec. 18. EFFECTIVE UPON ENACTMENT. This division of this  
22 Act, being deemed of immediate importance, takes effect upon  
23 enactment.